This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

+ *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.

+ *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.

+ *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.

+ *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at `http://books.google.com/`

LAW
KDC
186
S87
S87
1820

VINCERE AUT MORI.
Duncan Mc Neill

STANFORD LAW LIBRARY

AP
ASy
@Jt

THE

TRIAL

OF

ROBERT SURRAGE, JOHN DEMPSEY, JOHN BECK,
JOSEPH ELLIOT, MALACHI CLINTON,
AND PATRICK LYNCH,

BEFORE THE

HIGH COURT OF JUSTICIARY,

AT EDINBURGH,

ON THE 7th NOVEMBER 1820,

FOR

Murder.

AS TAKEN BY

ROBERT CHALMERS,
Joint Agent for Pannels,

AND REVISED BY PANNELS' COUNSEL.

EDINBURGH:

PRINTED FOR WILLIAM BLACKWOOD;
WILLIAM TURNBULL, GLASGOW, AND WILLIAM SCOTT, GREENOCK.

1820.

ACCOUNT

OF

THE TRIAL

OF

ROBERT SURRAGE, JOHN DEMPSEY, JOHN BECK, JOSEPH ELLIOT, MALACHI CLINTON, AND PATRICK LYNCH,

FOR

MURDER.

PRESENT.

RT. HON. DAVID BOYLE, LORD JUSTICE-CLERK.
LORD GILLIES. | LORD PITMILLY.

Counsel for the CROWN.

SIR WILLIAM RAE, BART. HIS MAJESTY'S ADVOCATE.
J. A. MACONOCHIE, ESQ. Advocate Depute.
ADAM ROLLAND, ESQ. W. S. AGENT.

Counsel for the PANNELS.

WILLIAM MENZIES, ESQ. Advocate.
Messrs WM. BALFOUR, & R. CHALMERS, W. S. JOINT AGENTS.

LORD JUSTICE-CLERK.—Robert Surrage, John Dempsey, John Beck, Joseph Elliot, Malachi Clinton, and Patrick Lynch,—attend to the Indictment against you now to be read.

"Robert Surrage, John Dempsey, John Beck, Joseph Elliot, Malachi Clinton, and Patrick Lynch, now, or lately prisoners in the gaol of Greenock, you and each of you are indicted and accused, at the instance of Sir William Rae,

of St Catharines, Baronet, His Majesty's Advocate, for His Majesty's interest; That albeit, by the laws of this and every other well governed realm, the wickedly and maliciously discharging loaded fire-arms at any of the lieges, as also murder, are crimes of a heinous nature, and severely punishable: Yet true it is and of verity, that you the said Robert Surrage, John Dempsey, John Beck, Joseph Elliot, Malachi Clinton, and Patrick Lynch, are all and each, or one or more of you, guilty of the said crimes, or of one or other of them, actors or actor, or art and part, In so far as you the said Robert Surrage, John Dempsey, John Beck, Joseph Elliot, Malachi Clinton, and Patrick Lynch, upon the thirtieth day of July, eighteen hundred and twenty, or on one or other of the days of that month, or of June, immediately preceding, or of August, immediately following, did all and each, or one or more of you, wickedly and maliciously discharge several shots from loaded guns or firelocks from a window of a house or room in Shannon's Close, leading from Shaw or Low-street to the breast of the old East Harbour, in the town of Greenock and county of Renfrew, or from the immediate vicinity of the said house or room, which house or room was then occupied by Frank or Francis Quin, porter in Greenock, at sundry of the lieges, then in the said close, or immediate vicinity thereof; and particularly at Robert Simpson and Henry Pearson, both then quay-watchmen in Greenock, and at Archibald Morrison, mariner in Greenock, son of Robert Morrison, residing in Stewart-street, Greenock; in consequence of which shots so discharged, the said Robert Simpson, Henry Pearson, and Archibald Morrison, were all mortally wounded, and the said Robert Simpson died upon the spot, and the said Henry Pearson died about two hours thereafter, and the said Archibald Morrison about twelve hours thereafter, and were all thus murdered by you the said Robert Surrage, John Dempsey, John Beck, Joseph Elliot, Malachi Clinton, and Patrick Lynch: And you the said Robert Surrage, John Dempsey, and Patrick Lynch, having been apprehended and carried before Claud Marshall, Esq. Sheriff-substitute of the lower ward of Renfrewshire, did in his presence, at Greenock, on the thirty-first day of July aforesaid, each of you emit a declaration, which declarations were signed in presence of each of you respectively by the said Sheriff-substitute, you having all declared you could not write; and you the said John Beck, Joseph Elliot, and Malachi Clinton, having been apprehended and carried before the said Sheriff-substitute, did each of you in his pre-

sence at Greenock, emit and subscribe a declaration on the 2d day of August aforesaid; all which declarations being to be used in evidence against each of you respectively by whom the same were emitted, as also three certificates, one of Robert Simpson's case, one of Henry Pearson's case, and one of Archibald Morrison's case, all dated 'Greenock, 30th July 1820,' and signed 'J. B. Kirk, M. D. William Sharp, surgeon:' also two guns or firelocks, and a small parcel of gunpowder and ball, being to be used in evidence against all and each of you, will be lodged in due time in the hands of the clerk of the High Court of Justiciary, before which you are to be tried, that you may have an opportunity of seeing the same: At least time and place foresaid, loaded fire-arms were wickedly and maliciously discharged by you the said Robert Surrage, John Dempsey, John Beck, Joseph Elliot, Malachi Clinton and Patrick Lynch, or one or more of you, at sundry of the lieges, and particularly at the said Robert Simpson, Henry Pearson, and Archibald Morrison, who were then and thereby murdered by you the said Robert Surrage, John Dempsey, John Beck, Joseph Elliot, Malachi Clinton, and Patrick Lynch, or one or more of you: All which, or part thereof, being found proven by the verdict of an assize before the Lord Justice-General, Lord Justice-Clerk, and Lords Commissioners of Justiciary, you the said Robert Surrage, John Dempsey, John Beck, Joseph Elliot, Malachi Clinton, and Patrick Lynch, ought to be punished with the pains of law, to deter others from committing the like crimes in all time coming.

H. Home Drummond, A. D.

LIST OF WITNESSES.

Claud Marshall, Esq. Sheriff-substitute of the Lower Ward of Renfrew-shire.
George Williamson, Procurator-fiscal, at Greenock.
William Currie, Clerk in the Sheriff-clerk's-office, Greenock.
James Balderstone Kirk, doctor of medicine, physician, in Greenock.
William Sharp, surgeon there.
John Spears, physician, there.
Muter Mitchell, residing with Helen Orr, his mother, in Innerkip-street, of Greenock.
John M'Knight, cloth-merchant and taylor, in Shaw-street, Greenock.
William Gowans, grocer, there.
William M'Lurg, sergeant,
Joseph Wootten, private soldier,
Andrew Colwell, private soldier,
Edward Higgins, private soldier—
All in the 19th regiment of foot, presently quartered in Edinburgh Castle.
Flora Muir, daughter to, and re-

siding with Barbara M'Allum, in Shannon's-close, Greenock.
Alexander Cochran, fisherman, residing there.
Margaret Campbell, his wife.
John M'Farlane, ship-master, residing in Shannon's-close, Greenock.
Mary Taylor, residing with Alexander Campbell, mariner, in East Breast, Greenock.
John M'Corqudle, pilot, and special constable, residing in Shaw-street, Greenock.
Abram, or Abraham Wilson, keeper of an eating-house, in Shannon's-close, Greenock.
Ann M'Ausland, wife of Frank or Francis Quin, porter, residing in Shannon's-close, Greenock.
John Denniston, mariner, — — — — Greenock,
John Lennox, superintendant of police in Greenock.
Robert Robertson, seaman, residing with Robert Bell, lodging-house keeper, Shannon's-close, Greenock.
John M'Intosh, seaman, residing with Peter Adam, lodging-house keeper, Shaw's-street, Greenock,

H. Home Drummond, A.D.

LIST OF ASSIZE

For the Trial of *Robert Surrage, John Dempsey, John Beck, Joseph Elliot, Malachi Clinton,* and *Patrick Lynch.*

COUNTY OF EDINBURGH.

John Corse Scott of Sinton.
William Wilkie of Bonnington.
Thomas Rennie Scott, farmer, Airfield.
George Dickson, farmer, Cousland.
John Mathieson, farmer, Cousland.
Robert Lyle, baker, Dalkeith.
Thomas Hislop, hatter, there.

COUNTY OF HADDINGTON.

Robert Hay of Spott.
David Pringle of Blegbie.
John Scott, farmer, Craigielaw.
William Sheriff, farmer Luffnessmuir.
John Reid, farmer, Ballincrieff.

COUNTY OF LINLITHGOW,

Alexander Marjoribanks, of Marjoribanks.
Norman Shairp, younger of Houston.
John Lauder, land-surveyor in Linlithgow.
Stephen Mitchell, senior, tobacconist there.
James Glen, distiller, Mains.

CITY OF EDINBURGH.

Andrew Scott, merchant in Edinburgh.
Andrew Sievwright, insurance-broker there.
Alexander Craig, merchant there.
William Henderson, grocer there.
Josiah Livingston, merchant, there.
Peter Arnot, tea-dealer, there.
James Melliss, merchant there.
Thomas Blackwood, merchant there.
John Thomson, bookseller there.
Alexander Deuchar, seal-engraver there.
John M'Dougall, grocer there.
Richard Totty, silk-dyer there.
Robert Penn, cabinet-maker there.
John Ziegler, jeweller there
William Armstrong, brass-founder there,
David Henderson, grocer there.
Henry Armstrong, coppersmith there.
James Liston, brushmaker there.
Charles M'Lean, agent there.
John Yule, baker there.
James Johnston, tobacconist there.

TOWN OF LEITH.

Robert Hutchinson, merchant in Leith.
John Ballow, cloth-merchant there.
John Black, agent there.
Walter Reid, writer there.
James Scarth, merchant there.
George Gibson, merchant there.
James Alison, merchant there.

The above is the List of Assize for the trial of Robert Surrage, and others above named.

GEO. FERGUSSON.
D. MONYPENNY.
ALEX. MACONOCHIE.

Upon the reading of this indictment, the Lord Justice-Clerk now inquired at each of the Pannels, What do you say to this Indictment, are you guilty or not guilty, to which they all pleaded, *Not Guilty*.

LORD JUSTICE-CLERK.—Have the Counsel for the Pannels any objections to the relevancy of this Indictment?

Here Mr Menzies rose and stated, that as the prisoners had suffered considerably from the animadversions of the public prints, and as they laboured under other disadvantages

as strangers, not knowing any witnesses, nor so situated as to expect any to volunteer in their behalf, he was desirous that the prisoner *Malachi Clinton*, against whom nothing he was certain could be proved, might be put to trial first, in order that upon his acquittal he might be enabled to appear as a witness in favour of the others,—more particularly as to the way in which the scuffle had commenced.

The LORD-ADVOCATE admitted, that the evidence was certainly not sufficient to convict the prisoner alluded to, but as to the the mode of disposing of the case, he would leave it in the hands of the bench.

After a few observations from the Lord Justice-Clerk, Lords Gillies and Pitmilly, the Lord Advocate deserted the diet against *Clinton*, as his information did not justify him detaining the Court with his trial, and he was accordingly removed from the Bar.

LORD JUSTICE-CLERK.—The usual interlocutor finding the relevancy of the indictment falls now to be pronounced.

Prisoners,—attend to the interlocutor of relevancy.

'The Lord Justice-Clerk and Lords Commissioners of 'Justiciary, having considered the indictment raised and 'pursued at the instance of His Majesty's Advocate, for His 'Majesty's interest, against Robert Surrage, John Dempsey, 'John Beck, Joseph Elliot, Malachi Clinton, and Patrick 'Lynch, pannels, find the charge of murder contained in the 'indictment relevant to infer the pains of law; but allow the 'pannels to prove all facts and circumstances that may tend to 'exculpate them or alleviate their guilt, and remit the pannels 'with the indictment, as found relevant to the knowledge of 'an assize. D. BOYLE, J. P. D.'

The following Gentlemen were then named as Jurymen:

John Corse Scott of Sinton.
William Wilkie of Bonnington.
Thomas Rennie Scott, farmer, Airfield.
David Pringle of Blegbie.
John Scott, farmer, Craigielaw.
Norman Shairp, younger of Houston.
James Glen, distiller, Mains.
Andrew Scott, merchant, Edinr.
William Henderson, grocer there.
Peter Arnot, tea-dealer there.
John Thomson, bookseller there.
Alexander Deuchar, seal-engraver, there.
William Armstrong, brass-founder there.
Robert Hutchinson, merchant in Leith.
James Scarth, merchant there.

EVIDENCE FOR THE CROWN.

MUTER MITCHELL, residing in Greenock, aged 16 years and upwards, Recollects, on a night, at 11 o'clock in Summer, of going out to seek his brother, a sailor, who had returned from the West Indies; went to the Square, and along the Laigh Street, and heard a noise; went towards it, at the top of the Highland Close, which is opposite to Shannon's Close, and heard wrangling. When witness went up, saw a tall soldier going up and down, and calling to the rest of the blue jackets to fight; might be four or six soldiers; might be sailors or tradesmen to the number of a dozen. Witness stood and saw a little soldier come up with a bayonet under his white jacket, and bid them turn out to fight; some girls came up, and wanted him to go away, but he would not; the sailors were wanting to make peace; a sailor came over the street with a pair of water stoups, and offered the soldiers half a pint, and bid them come away; one of the soldiers took hold of one of the stoups, and said, 'come away, ship-mate;' all the soldiers and the sailors went down Shannon's Close; some of the soldiers went out of sight into closes and places. Witness went to head of close and stood; and saw the disturbance begin again; witness does not know how. First thing witness saw was a soldier knock down a sailor with a water-stoup; the soldier ran in to the laigh house; the sailor rose and ran in after him; the door of the house was shut, and people called out they were murdering the lad; does not know the lad; the crowd began to break the doors and tear off the shutters, and to break open the doors and windows; saw the shutters fleeing through the air. Witness then ran up the close to get out of the way for fear he might be hurt, and to see if he could find his brother; stood a little, and heard one of the soldiers call, 'fire;' does not know where from; heard a gun fired, and the mob ran up the close, and said a lad had fallen; a lad was brought up close; heard him called Morison; he was all blood; thinks, by the voice, that the person who called 'fire,' was the soldier who wanted to fight. Witness continued at the head of the close; saw an old woman running, crying for the guard, and the guard came. Witness previously heard several shots fired; thinks out of the window. The guard came, and stopt at the head of the close, and called out to those who were firing, 'halt, halt.' Witness might be rather farther from the window than he is now from the corner of the Court-room, (about 50 feet); was standing in Laigh Street, peeping round the corner; heard or saw no bullets come into Laigh Street; the guard went down the close, and the same man that always called out of the window called to the guard to take away two or three men who were standing in the close, which the guard did; these men had on blue jackets and trowsers; the soldiers continued firing after the guard went away; but there was then nobody in the close; did not then here any stones thrown at that house; heard two or three men say to go down the close and take the buggars out; cannot say when this was said; saw no stones thrown; people at the foot of the close called out that there

was a man hall fallen. Witness cannot say whether there were any watchmen; saw a man come up the close to below the window and speak up; does not know what he said; this was after the city thats a-fallen had fallen; a shot went off, and the man fell; at this time saw a gun; the same voice always cried out of the window, but does not know what he said; saw a girl come out and ask if she might take in the man; the voice replied, but does not know what; this girl came out from the opposite side and said, 'by the strength of God she would pull him in;' she did so; guard came and went down; witness went to where man was taken; does not mind whether any more firing; thinks one shot; saw man lying dead; people said he was a watchman; the guard had taken one of two of the soldiers away in the place, but does not know which house; but it was not the house that the firing was from; saw three carried away; guard came back again, went into the house from whence the firing was, and took away soldiers; does not know how many prisoners; crowd pressing round. When witness first saw soldiers, they might have had a glass, but were not drunk; when the three soldiers were taken away they appeared to be 'beastly drunk.' At the end Lennox entered the house, and witness saw a man dressed like a sailor fallen from below a bed. Witness was looking in at the window, this man was all blood, every bit of him. Witness does not know which of the two uppermost of the panels (*Surtage and Dempsey*) is the tall man; cannot say now either of them is that man; rather thinks it is the one nearest him (*Dempsey*); does not know how the tall man was dressed; thinks a white jacket and grey trowsers; saw the tall man afterwards, the day after, in jail; he was then all cut and dirty; does not know which of the two is this man; thinks it was one of the two; thinks Lynch was the man with bayonet; is not quite sure.

Cross-Examined. Soldiers had not on their belts; Had no sticks; The soldiers were all very agreeable-like, or disposed to make peace, when they went down the close. Witness thinks the soldiers might have gotten abuse before he came up, from the way they were speaking.

By the Lord Justice Clerk. Saw no stones thrown at the house from whence the firing came, neither did he see any stones thrown at any time that night.

John M'Kinnon, cloth merchant in Greenock, lives in Shaw Street, at head of Shannon's Close, at the corner of Highland Close, his window looks right down Shannon's Close; on 30th July a riot; went to barber's half past Eleven, or later, to get shaved; the street then quiet; was there about half an hour, and returned home; after in his own house heard a noise at the window, looked out of the window, saw some soldiers dressed in flannel jackets, and some sailors; a dozen; they were quarrelling, but appeared afterwards to be making it up. Witness left window; the noise in a little became louder; returned to window; saw soldiers and sailors fighting, and a sailor knocked down in Shannon's Close; does not know who or what did it; at the time man was knocked down saw sparks, as if

from snapping of a pistol, or knocking a piece of iron on a stone; the crowd was gathering thicker, and shouts of murder cried. Witness went for guard; heard no shots in going to guard house, but more than one in returning; sarjeant and other soldiers accompanied witness so far; he left them, and went home; was in house some time before guard came; saw guard take two men into custody, in coloured cloaths, and go in direction of guard house; people were going up and down the close; heard called from an upper window in Quin's house, who are you? a voice replied 'I am placed here by authority,' the voice from the window asked his name, answer, 'that he had no business with his name, but that he was placed here by authority;' did not hear another word; a musket then discharged, a man fell, and lay half an hour nearly; was lifted by some woman and taken to one Stewart's in opposite side of close; does not know who it was; can't say this was the man who spoke up to the window; two shots fired from the window after this, at an interval of two or three minutes; the guard returned, went into that house and took one or two soldiers in custody; at the time man was shot, saw no violence used against Quin's house; there were a number standing close to Quin's house near the man; within a few yards; thinks man not directly opposite, rather farther down. Before witness went for guard, the people were attempting to break open the house, and tearing down the shutters, breaking up both door and window; saw no more violence; heard no threats; after the man fell, the crowd was always increasing; did not see any other person fall.

Lord Justice Clerk. Before he went for guard the people were endeavouring to break into the house, by tearing off the window shutters, &c. but after guard came saw no violence attempted.

WILLIAM GOWANS, grocer in Shaw Street, recollects between 12 and 1 at night, 30th July, of a row, went to his door, and saw a sailor and a woman coming from the westward of Shannon's Close to the east, and two or three soldiers with them; does not know whether soldiers were intoxicated; one of the soldiers offered to lay hands on the woman, and the sailor gave him a shove; soldier seemed angry, and threatened to fight; the sailor and woman left them; the soldiers turned down Shannon's Close a small bit, and then turned back to the foot of Highland Close, where were six or eight men in sailors jackets standing; one of the soldiers went forward and swore by the Holy Ghost that he would lick any one of them; heard none of the sailors give any insulting language; the sailors seemed not inclined to fight; the soldiers went down Shannon's Close with two men like sailors; thought scuffle over and shut his door; in a short time heard a noise like fighting, and went out, and saw three of the soldiers lying on the street at the door of Cochrane's house; heard a man in sailors dress say that he could lick the whole of them; one of the three soldiers got in at the door, and soon after a soldier came out with something like a sharp weapon in his hand, and struck about him in all directions, driving back the crowd who were there; a sailor standing by, with a pair of water stoups, lifted one of them and struck the soldier on the back of

the head; they struggled a little when the sailor was knocked down; saw a woman and some other person drag the sailor into the house of a Robert Bell in an entry on same side with Quin's; the soldiers then went into Cochrane's; after the soldiers got in, a great number of sailors knocked the stoups against the door, so as to endeavour to break it open; the time they were knocking at the door, a gun was fired over the window; shortly after this shot, some people came carrying up a sailor, whom they said was Morison, and that he was severely wounded; at that time only one shot fired; the crowd then dispersed; after the crowd had dispersed heard several shots so quick, that it could not be with one musket; saw a gun lying over window but no person; this a little before the guard came; after firing commenced, a watchman came before the window, and said he was a watchman and desired not to fire; they fired, and the watchman immediately fell; only one shot fired; the watchman lay for some time; saw some women take him into Stewart's, at which time he was dead; in the meantime, while he was lying, another watchman came up Shannon's Close. Witness saw him coming up the close; heard gun or guns fired; did not see him fall; there were none other of the crowd near him at the time; at the time no stones, or violence, or threats; there was a crowd at head of close; about 25 yards; was told he was a watchman; the dress he took to be a watchman's dress, was a short blue coat and trowsers; the guard came and spoke up to the window; does not know what they said; immediately a gun fired; the guard entered the house, and soon after came out and said they were going for a stronger guard; saw no prisoners with them; saw guard come back and bring out two soldiers, and then go away; never saw the guard except on these two occasions; did not observe them have any person in coloured clothes at that time; thinks an officer came with the second guard.

Cross-Examined. The night was such, you could see a person at a considerable distance; did not hear any say, 'he was placed here by authority,' nor any body from the window say, 'who are you?' nor any answer; heard speaking from window, but did not hear what it was.

JOHN M'FARLANE, ship-master in Greenock, lives in Shannon's close, opposite Quin's. Witness looked over the window about one on Sunday morning in July last, it was dark, but not very; saw some people lying on the street, and some people in light clothes thrashing them. Witness asked them if they were going to kill the individuals, and called them cowards; all the violence was committed by the white jackets; they had some weapon which struck fire when struck against the wall: to the best of his recollection, five at least went into Quin's; saw them in their own room through the window take their arms; there were a few persons then came to the door and attempted to break it open; does not know what they had in their hands; made a rattle at door. Witness desired them not to break door; one man appeared at the window and fired up the close; did not see any body fall on first fire. The next thing he recollects,

was a person calling himself a navy officer, who desired them to desist, saying he was of their party, all king's men; saw afterwards two at the window; saw the last fire, the firing continued. Witness saw no more than two fire out of the window; cannot say whether they changed or if it was always the same two who fired; one he thinks continued all the time, but he cannot say what the other did; after first shot, people from window spoke, when any one hove in sight a voice from window cried, 'Who comes there?' they said they had plenty of ammunition; after the naval officer, a watchman came into close from Shaw street, when the men at the window said, 'Who comes there?' he said, 'I am the watchman;' the person at window told him to be off or he would blow his brains out; he said he was called on duty, and that they had no busines with him; the watchman continued to walk down the close, when the man who continued always at the window pointed and fired at him, when he immediately muttered something and fell; several shots were fired afterwards; then the guard came; the officer called by name, '*Surrage*,' to come down; recollects Surrage was one of the names but does not recollect the other; does not recollect the answer; the guard entered; a squabble ensued; the guard came away: he thinks they had one prisoner with light-coloured clothes; in a quarter of an hour the guard came back again; there was firing during this interval. Witness and Lennox, the Master of Police, then went into house with guard; into Quin's; saw the guard go away with four or five prisoners; some were taken out of the room where the prisoners and men were, and from other parts of the house; when the second guard came, one was leaning over the window, the same who fired at the watchman; saw nobody else fall from a shot; knew Pearson; went about to a house and saw a person lying dead, whom he was told was Pearson the watchman; the business lasted about an hour; the watchman was carried into Stewart's house. Witness ran and saw a man lying dead; knew him to be Pearson a watchman; guard had not been there before watchman was shot; thinks the voice of the person who fired from window at watchman was Irish; night was so dark that he could not distinguish the features of men.

Cross-Ex. Never saw any men in light jackets lying on ground.

MARY TAYLOR, residing in Greenock, lived in Shannon's close in July, when there was a disturbance; saw different people she knew; saw Simpson the watchman; did not speak to him; witness went up close; heard Simpson say he was on his duty; soldier asked what was he? Simpson rejoined, What was his business? soldier said he would blow his brains out; and Simpson said 'will you,' the gun then went off and Simpson fell; at the time Simpson was shot he was standing. Witness was near to Simpson; four or five feet off; there was none near Simpson except witness; witness tried to lift Simpson; he was bleeding at right breast; Pearson was up the close when Simpson fell, and he came down the close saying, 'for God's sake will any body go and assist him;' and as he was saying these words he was shot from the window; Pearson was taken to one Campbell's in East Breast. Witness went for Dr. Kirk; Pearson said they aimed at him when he was shot.

Cross-examined. Pearson was near bottom of close; there is a large shop window near the bottom; he was opposite to the window; the shutters of it were closed at the time.

Re-examined. Witness saw a lad whom she knew to be Monteith carried away; did not see him shot.

JOHN M'CORQUODALE, residing in Shaw street, Gaenock, and special constable; had occasion to be up late on 30th July; saw a great mob at the head of Shannon's close; sailors, and women, and children; saw a door open, Cochran's door, and some sailors standing at the door, and three or four soldiers within it; who had a sailor lying on the broad of his back within the door, and were hauling him in; the door was shut and bolted; the window was broken, and Cochrane came out at the window; landlord run for guard. Witness ordered the door to be forced open, which was attempted by the mob with an empty barrel and a pair of stoups; while doing this, a gun was fired out of the window. Witness then run down to foot of close, and afterwards went to Lennox, and then to guard house. Witness returned and the guard opened the door. Witness saw Simpson before he went for the guard right opposite the window, and Pearson half way down the lane; when he returned, witness found Simpson and the mob standing there; heard Simpson say to the soldier, 'avast firing my good fellow, for we are all King's men as well as yourself, and we do not wish to make or meddle with you, we wish to quell the mob;' the soldier neither said nor did any thing. Witness entered with the guard and went up stairs; a scuffle ensued; the serjeant was struck, and before he looked round there was nobody with him but one private, the rest had gone for their guns; went away and met the whole of the soldiers coming down with bailie Leitch and a captain, who drew his sword, and said, 'peace be here.' Witness entered the house with soldiers, and Lennox; one soldier standing behind the door; none of the pannels; this man had a pair of tongs; then three others came back and saw Robertson all covered with blood; did not hear the guard at first call up to the window; the *private* who stood with witness called up to the window, 'you'll cease firing.' He called him 'Robert;' forgets the second name; saw Simpson when he came back, dead in a house below; must have been shot between the coming of the first and second guard.

FLORA MUIR, residing in Shannon's Close; lived there in July, was out for water late on a Saturday night; saw three sailors and four soldiers, the sailors were standing speaking to each other, and the soldiers were going down the close. When witness came back, they were all together; the soldiers wanted to quarrel; heard some soldier say, do you think you are able to fight with me? They then all went down into Cochrane's; one of the sailors had a pair of water-stoups in his hand; saw door opened; a sailor pushed out, and fell on his breast; he got up; next the man with the stoups came out. Two soldiers then came out, and were knocked down as soon as they came out into sheugh (*i. e.* sewer,) then a soldier came out, and went in again: then one came out with a bayonet or poker, and made it fly round his head; thinks the sailor with

the troops struck him on the back of his head; the sailor held up a stoup, and defended two or three blows, and then got a blow with the thick end of what soldier held in his hand, and fell; then the soldier took a stoup and struck the sailor several times on the head. Witness took the lad, who is Mackintosh, into Bell's; while in Bell's, heard firing. Witness went to guard-house; guard came, and went away without any body with them; saw a body lying; then somebody called, 'it was a shame to see that man lying in his blood so long.' Witness went out, and passed Quin's; a soldier at the window presented his gun. Witness said not to fire, till she got in the body; and he answered that 'he would fire over on the street some who fired;' but he did not fire. She went into Stewart's, and came out again, and said not to fire; then soldier said, 'take him in, and be damned to you:' which she did. At this time only one man with a gun. Did not know whose body, but heard it named—was Simpson's.

Robert Robertson, resided in Greenock when affray happened there in July; had been seeing a friend. Witness coming down Shannon's Close, saw some soldiers, two or three; some standing at head of close, and the others fighting; cannot say with whom; it was among themselves. Witness then asked, what was the matter? answered, 'not much.' One of the soldiers then challenged witness to fight; asked him if he would fight—witness said he would not. Witness was then struck down by one of the soldiers, and was dragged into Cochrane's house: was sensible; three or four soldiers knocked him down there. Witness was hauled into kitchen, and struck three or four times on head with candlestick; became insensible; when recovered, found himself beneath a bed; does not know any of the soldiers. About 12 o'clock, did not see a man with stoups.

John Mackintosh, residing in Greenock. As witness was going to well in Highland Close in July, he saw six soldiers at the head of Shannon's Close, who were wanting to breed a quarrel; one big man in particular. One asked witness if he would fight; witness said no, and was then struck; defended himself with water-stoup, and was knocked down, and beat till he was insensible: this was at the head of Shannon's Close. Before he was knocked down, witness endeavoured to persuade soldiers to go home, and for that purpose went into a house with them to get drink, but did not drink any; one of them had a poker or a pair of tongs. Witness was within the house; some went; two would not go; nobody was with him, except soldiers; when he went in, was not pushed out.

Cross-examined. Does not know whether the person who knocked him down came out of the house; swears he did not strike any person with the water-pail.

Alexander Cochrane, fisherman in Greenock. Recollects of Carrige and Dempsey being quartered in Quin's; on 30th July, came to witness's about seven, and Dempsey got two half-mutchkins of whisky to his own room; he said he had four or five other

companions with him. Three soldiers came down stairs, and went out; heard a noise; supposed then the soldiers to be cruelly treated; they came back, and wanted in. Witness opened the door, and some of the soldiers came in, and Robertson came in alongst with them, two of them holding him: the crowd was desperate at the door; abusing the soldiers most dreadfully; one struck Robertson with a candlestick at kitchen door; witness drew him into the kitchen. The soldiers went up stairs; the crowd grew very numerous, tore off the shutters, and threw them in at the window, which was broke. Witness wanted to go for the guard, but could not get out for the crowd; got out at a window, and went for the guard. Witness thinks there was a shot fired before he went out. Witness pleaded with the mob that he was going for the guard, and while doing so a shot was fired. The close was full from one end to the other. The street was cleared when he came back with the guard. On his way, heard shots; the guard turned back for their arms before they got into the close. Witness went up to room where soldiers were, and told them they were firing on their own guard; said he had been for the guard; Dempsey said he would blow his brains out for doing so; saw three soldiers in the room, but cannot say whether there was more in the room; two standing at window with two muskets pointing to street, the third was standing behind one of their backs; Dempsey was one standing at window with a musket in his hand; cannot speak as to the others. One soldier, Beck, was sleeping on a bed in the room before the riot began and continued so till the end; Clinton was getting a wound washed in another room. After guard came to house there were three shots fired; does not know whether it was before the sergeant went up, or after. Witness saw Dempsey, Surrage, and two others, taken into custody up stairs; Lynch was in the coal-cellar; soldiers all over blood. Witness had great difficulty in getting door shut; after it was shut, crowd outside said 'they would have the bloody souls of the soldiers;' no firing took place previously, none took place till the window was knocked in; does not recollect whether crowd was then beating at door; was not in the room next morning, but from outside observed that the whole glass was broke in, and thinks some of the wood; observed two sailors come in and go out with Robertson a little before the riot.

Cross-examined. Surrage and Dempsey had lodged in Quin's from the time they came to the town; saw nothing on their part but good behaviour while they lived at Quin's, and not in the habit of frequenting his public house; they were quiet and peaceable; the soldiers had then a half-mutchkin, there were seven of them. Witness saw one dead body in the lane; some of the men were very much the worse of drink; only saw three soldiers leave his house, some went out after the riot began.

Serjeant Wm. M'Lurg, of the 13th Regiment.—Remembers of a man and woman coming for the guard to the guard-house, to go to Shannon's close; went down with 4 men. Having heard firing, he returned with the men for their arms, and brought with him 6 men armed. When he came down he saw Dempsey and Surrage leaning

out of a window with musquets in their hands—Surrage challenged, who comes there? Answer, 'The serjeant of the guard.' Dempsey called out, 'stand back:' Dempsey cocked, and presented piece, Colwell, a private, knocked it aside with his gun, and it went off. Ordered Surrage and Dempsey to come down, they said they were afraid; but to take two men, who were standing at the door into custody, who had been beating them all night, and put them in prison, and they would surrender. Witness did so, and went to the guard-house; nobody lying on street at this time. Had left Wooten at the house: when he came back, came into house, went up stairs; was entering door when Dempsey caught hold of him, and knocked him back. Dempsey called to Surrage, 'were the firelocks loaded?' and then ran and caught hold of a firelock, and presented it at witness. Witness left Colwell, and went for Captain Shearman, whom in a short time he met coming. Beck was lying on the bed seemingly asleep, or drunk; Elliot was in the room doing nothing, he might have been drinking; did not see Lynch in the room, or Clinton. Captain Shearman called up to one or other, to come down, and that he would protect them: and one of them then said, that's Captain Shearman. They all came down, Dempsey, Surrage, and Elliot, and were marched up to prison. Believes it was afterwards that Elliot was taken; is positive that on the first time he got admission, he did not take one of the soldiers for him. When serjeant first entered the room, Surrage was willing to come away, only Dempsey prevented him; saw both Dempsey and Surrage firing when went down second time; saw nobody fall; Dempsey seemingly more unwilling than Surrage to come away, he might be afraid. Both leaning over the window both times he came down. They were all bloody, and said they had been nearly murdered.

ANDREW COLWELL, a private in the 13th Regiment, was on guard in Greenock on the night of the affray in July; did not see Dempsey looking out when Surrage challenged the guard. Surrage on being desired to come down, said he was almost murdered by a mob; and that he would come down if they would take the two men into custody who were standing there wanting to break in; guard took the men into custody, and carried them to the guard-house; when he came back to the ground, they saw a body on it. Surrage was at the window this third time with his musquet; called to lay down his musquet, and he did so; Dempsey took it up, and put it out at the window. Witness heard him cock the piece; he stepped a pace aside; witness at that time struck Dempsey's gun with his piece, to turn it aside, just as it went off. Saw nobody hurt. Dempsey and Surrage were in a shocking state when witness went into the room, could not observe their features for blood. Surrage agreed at once to come down; Dempsey said he would not; did not threaten to fire. Captain Shearman desired Surrage to come down, Surrage said he would if he would protect him from the mob. He said he would, and they both came down. Witness did not observe any other of the soldiers in the room. The second

time he went down, he saw Elliot's head out of the window. Surrage always seemed to be afraid to come down; thinks Dempsey might be afraid also.

Joseph Wooten, also private in the 13th Regiment, saw Robert Surrage looking out of window with a firelock; Surrage was standing at the window the second time; Surrage went in, and Dempsey came to it with his piece, and swore he would shoot the serjeant: *Corroborates Colwell.* When the serjeant entered the room, Dempsey asked if the pieces were loaded? Surrage said they were not; the guard tried to take his piece, but could not. He then took up his piece and began to load it, when the guard left the room.

John Lenox, superintendant of police in Greenock.—Recollects of the affray in question; saw two men at the window when he came down with the guard, one leaning out with a musquet threatening to fire, he did not see if the other had a gun; heard the serjeant call to the one with the musquet to deliver up his gun; Dempsey desired him to take care of the back ground, and they would secure this. Witness answered, that he was master of police, and came there for peace. Dempsey answered, 'he did not care a damn for no man.' The serjeant entered, and went up stairs. Witness heard Dempsey say, 'You damned villain I will immediately blow, or knock your brains out, if you enter the room.' Before the serjeant entered a shot was fired above the level of any one's head in the close, and down the close. At this time no person was at the bottom of the close. Witness desired the serjeant to send for Captain Shearman, which he did; and on the captain's coming the men were secured and lodged in jail. Beck was in such a state of intoxication, that he was carried down stairs. The height of the window from whence the shots were fired 10 feet 8 inches from the ground. The sash of the window was lying close to the wall of the room, and apparently had been taken out for the purpose of allowing the soldiers to get out their heads. Thinks the panes were broken by trampling on—wood work entire; there were no stones in the room, and none of the panes of the upper sash were broken. Did not see any part of a window-shutter in the room.

Dr James Balderstone Kirk, physician in Greenock, recollects of being called, along with Dr Sharp, to visit one Pearson, watchman; went to Shannon's Close, and found him in a public-house in neighbourhood, kept by one Campbell; Pearson wounded in chest; *begged to refer to his report.* When he found Pearson was dying, and anxious for the ends of public justice, he put a question to him, at the suggestion of his wife, whether the man who fired at him took aim? to which he answered distinctly, that he did. Went and saw one Morison, in a house at a considerable distance from Shannon's Close, also wounded; *also begged to refer to report.* Examined the body of Robert Simpson, and made report also.—These reports correct.

All which Reports were read in Court, and are as follow:

CERTIFICATE OF HENRY PEARSON'S CASE.

Greenock, 30th July 1820.

We hereby certify, that we, this morning, between one and two o'clock, visited Henry Pearson, watchman, whom we found wounded through the chest: a musket ball had entered between the sixth and seventh rib of the left side, half an inch from the breast-bone; and issued between the sixth and seventh rib on the same side, about five inches from the spine. When we first saw him, the wound was evidently a mortal one; he, however, survived about two hours. We certify our opinion, on soul and conscience, that Henry Pearson died of the wound above described, which we have also examined since his death.

(Signed) *J. B. Kirk*, M. D.
William Sharp, Surgeon.

CERTIFICATE OF MORISON'S CASE.

Greenock, 30th July 1820.

We certify, that between one and two o'clock this morning, we visited Morison, sailor, whom we found in a house in Drummer's Close, having been wounded by a musket ball, which seems to have entered on the right side of the belly, at an equal distance from the umbelicus and the anterior superior spinous process of the ilium, and passed out within half an inch of the second lumber vertebra of the same side. A portion of the bowels protruded through the wound in the belly, which we returned; we then sent him to the hospital, where he died this forenoon. We have since examined his body in the hospital, and have no doubt that he died in consequence of the wound above described, on soul and conscience.

(Signed) *J. B. Kirk*, M. D.
William Sharp, Surgeon.

CERTIFICATE OF ROBERT SIMPSON'S CASE.

Greenock, 30th July 1820.

We hereby certify, that we have examined the body of Robert Simpson, watchman, and that we found a gun-shot wound, the bullet which inflicted it having entered about an inch below the middle of the right collar-bone, and escaped near the middle of the lower rib of the left side, having thus taken a slanting direction downwards. We have no doubt that this wound occasioned Robert Simpson's almost immediate death, on soul and conscience.

(Signed) *J. B. Kirk*, M. D.
William Sharp, Surgeon.

Dr Sharp was then sworn, who corroborated the immediate preceding witness *in omnibus*.

house, or to the house below, on Saturday night last, to take a dram; and the declarant neither invited nor compelled any one to do so: That the declarant did not hear any person in front of the quarters call up to the window, that they were watchmen; and the sergeant was the only person who called up to the window to give over firing, whom the declarant heard: That when the declarant fired there were people standing in Shannon's Close, and they were crowding about the door, and throwing stones in at the window of their quarters: That he recollects of two women coming and carrying away the body of a person who had been shot, and one of them called up to the declarant not to fire, and he said that he would not fire, and would not allow any one else to fire: That the declarant did not hold any intercourse with any woman on the street that night, nor did he challenge any sailor to fight; but the declarant recollects, after having heard that Elliot had been knocked down, of saying to some sailors who had been there, that he would have thought nothing of the man's giving a blow, had he struck a man like the declarant, but it was unworthy to strike a boy such as Elliot: That there is now attached to the firelock before mentioned, a label, with a docquet thereupon, bearing reference hereto, which is subscribed by the Judge-examinator, in respect the declarant cannot write. All which is truth,—

(Signed) CLAUD MARSHALL.

At Greenock, the 31*st day of July,* 1820 *years, in presence of* CLAUD MARSHALL, *Esq. Sheriff-Substitute of the Lower Ward of Renfrewshire.*

Compeared JOHN DEMPSEY, private in the Thirteenth Regiment of Foot, and present prisoner in the tolbooth of Greenock, who, being examined, declares, That he has been a private in said Regiment for three years past in June: That he was enlisted in the county of Londonderry, of which he is a native, and is about twenty-three years of age: That on Saturday night last, John Beck, Patrick Lynch, Malachi Clinton, Joseph Elliot, Robert Surrage, and the declarant, were drinking in the quarters of Surrage and the declarant, which are in Frank Quin's house, in Shannon's Close: That they began at nine o'clock at night, and ten half-mutchkins of whisky were consumed, but not altogether, by the persons before-mentioned, as several of their comrades were coming and going, and the people of the house below also got a part: That the declarant's comrade, Surrage, had

gone out to see Joseph Elliot, who is a boy, and who had got intoxicated, home, and when they were out the declarant heard a disturbance, and looking out at the window saw Surrage attacked by several people, upon which the declarant said, that he would not allow him to be murdered, and went down for the purpose of getting him into the house: That the declarant accordingly went down, and got a cut upon the head with a stick or a stone immediately on coming to the street, and after a good deal of fighting the declarant got Surrage in, as they had him down on the ground, were kicking him in the gutter, and if it had not been for two women, the declarant does not think he could have got him in: That after the declarant got Surrage into the house, the declarant and the landlord remained at the door, and the rest of the soldiers went up stairs to the room, the window of which was soon thereafter driven in by the crowd from without, and the soldiers then began to fire: That the declarant then went up stairs, and found Beck and Elliot, and Lynch and Surrage, in the room, and he saw the frame of the window lying upon the floor: That there were no shots fired after the declarant went up to the room, and the declarant did not fire at all: That the declarant has no recollection of sergeant M'Clurg coming into the room, and the declarant did not seize the serjeant, or level his musket at him: That the only person the declarant recollects of seeing was captain Shearman, who came with a party of the regiment, and carried the declarant and Surrage away to the prison: That the declarant was intoxicated on Saturday night when so carried off by the party: That there is now exhibited to the declarant a firelock, marked on the butt $\frac{E}{18}$, and upon the breech of the barrel 18 R. T. and the said musket is the one which the declarant had charge of as a soldier in the said regiment, and is now loaded, and appears to have a double shot in it, and to the said musket is now attached a label with a docquet thereon, referring hereto, subscribed by the Judge-examinator, in respect the declarant cannot write: That there were just Surrage's and the declarant's muskets in the quarters in a condition for service, as Lynch's musket, which was likewise there, wanted the lock: That there should have been in each pouch sixty rounds of ball cartridge, but the declarant was deficient several cartridges: That the declarant did not know that any sailor or sailors were invited or compelled to join their party to drink on Saturday night, and the declarant does not know that any person had been dragged into the house below, or found there under a bed: That

Saturday last was the pay day of the party at Greenock, and the men received their money after the evening parade: That the declarant's musket is now drawn in his presence, and there is extracted therefrom two ball cartridges, which are put into a paper parcel, which is marked as relative hereto. Declares he cannot write. All which is truth. This declaration, written, &c.—(Signed) CLAUD MARSHALL.

At Greenock, the 31st day of July, 1820 *years, in presence of* CLAUD MARSHALL, *Esq. Sheriff-Substitute of the Lower Ward of Renfrewshire.*

Compeared PATRICK LYNCH, private in the Thirteenth Regiment of Foot, and present prisoner in the tolbooth of Greenock, who, being examined, declares, That he has been about a twelvemonth a soldier in the said regiment, and was enlisted at Dublin, the declarant himself being a native of West Meath, and about nineteen years of age: That on Saturday night, about nine o'clock, the declarant was going down Shannon's close, and as he passed the entry leading up to the house of Francis Quin, where John Dempsey and Robert Surrage live, he met the said Dempsey and Surrage, and Dempsey asked the declarant if he would go in and take a glass of whisky with them, which the declarant agreed to do, and went into a public house with Dempsey and Surrage upon the opposite side of Shannon's close, where they had a dram, and remained about a quarter of an hour; during which time, they were joined by Beck and Elliot, also privates in the Thirteenth Regiment, who likewise got a dram: That, after getting the dram in the said public house, Dempsey, Surrage, Beck, Elliot, and the declarant, went over to Francis Quin's, where they had more liquor, and remained till about eleven, before which time, another private in the Regiment, to wit, Malachi Clinton, and likewise Corporal Duncan, had joined their party: That about eleven, Elliot, Surrage, and Clinton, went out with Duncan to convoy the Corporal home, and Dempsey, and Beck, and the declarant, remained in Quin's house, and the declarant having told them, that he would not remain longer from home, he got up to come away, and Dempsey and Beck rose along with him, and Dempsey got out to the street first, which, by this time, was full of people, and the declarant saw people striking Surrage, Clinton, and Elliot, and the declarant himself was knocked down when coming out at the door, by a man who wore a blue jacket and trowsers, and appeared to be a sailor,

and who said, "Don't think that the Yeomanry Cavalry is here now, we'll have satisfaction of you, if it was for twenty years time:" That the man kicked the declarant after he was down, after which, the declarant rose and went into the house: That the said person also said, when the declarant was down, "that the Yeomanry Cavalry would not have got home so safe to Port-Glasgow, if the masters would have let them out of the yards:" That the declarant went up stairs to Quin's house and got a bayonet, which he brought down in his hand, but Quin, who met the declarant at the door, took the bayonet from him: That the declarant then went up stairs, and found Elliot and Surrage at the window, with each a firelock in his hand, and several shots had been fired before the declarant went up: That the declarant fired one shot himself, but had taken the ball and laid it on the table, and the declarant fired the musket straight across the street for the purpose of dispersing the crowd: That it was the musket which Elliot held in his hand, which the declarant fired as above mentioned, and which musket belonged either to Surrage or Dempsey, as there were only their own muskets in the room that could fire, as the declarant's musket, which happened to be also there, wanted the lock: That Dempsey, Elliot, Surrage, and Beck, were removed from Quin's house by the serjeant and party, and the declarant and Clinton were removed afterwards by the captain's party, and this took place about twelve or one o'clock of yesterday morning; That the declarant saw Surrage fire two shots after he went up to the house, and he thinks he loaded his own gun, and the declarant saw Elliot with the ammunition in his hand: That the declarant did not see Elliot fire, nor did he see any persons on the street who had been hurt by the shots, but heard the people calling out that the firing would not fear them, and that they would not go away till they got the muskets: That the declarant did not, except as above mentioned, take out the bayonet, but, at a previous time, the declarant had a stick in his hand which he walks with, being at present in a weak state of health. All which is truth. Declares he cannot write.

(Signed) CLAUD MARSHALL.

At Greenock, the 30th day of August, 1820, *in presence of* CLAUD MARSHALL, *Esq. Sheriff-Substitute of the Lower Ward of Renfrewshire.*

Compeared JOHN BECK, private in the Thirteenth Regiment of Foot, and present prisoner in the tolbooth of

Greenock, who, being examined, declares, That he has been nearly twelve years in the said regiment, is a native of Tiverton, in Devonshire, and about thirty years of age: That last Saturday night, about a quarter after eight, the declarant fell in with John Dempsey and Robert Surrage, privates of said Regiment, in a grog shop near their lodgings, and the declarant had a glass of grog with them, and Joseph Elliot joined them while in that house: That they left that house about a quarter before nine, and Surrage having asked the declarant to go over to his quarters to see a pair of new trowsers which he had got, the declarant went with Dempsey and Surrage, and Elliot also went with them: That as they were going to Surrage's quarters, Elliot stopped behind to make water, the declarant and the other two went up to their lodgings before Elliot came, and when he arrived, he said that a sailor had come up to him and offered to enlist, but Elliot told him he had no instructions to enlist him, and Elliot also mentioned that the sailor had struck him, and knocked him down: That Dempsey and Surrage, on hearing what Elliot had told them, went down stairs to see if they could fall in with the sailor, but they returned soon after, reporting that another sailor had informed them, that the man they were seeking was gone: That they four then sat down to drink, and were soon after joined by Malachi Clinton, another soldier of the Regiment: That Patrick Lynch was also with them from nearly the beginning, but the declarant does not know whether he came from the grog shop with them, but another soldier of the name of M'Arthy came with them from the grog shop, and remained with them for a short time: That the party continued drinking together comfortably enough for sometime, and they were joined by the landlord and landlady of the house below and their servant maid, who remained for about half an hour with them, and took a glass, and then went down stairs: That the party continued drinking for some time longer, and the declarant having come off guard became very sleepy, and was somewhat the worse of liquor, and laid himself down upon the bed in the room and fell asleep, and knew nothing of what followed, till he was pulled out of bed by one of the men, who mentioned that the guard was come, and when the declarant got up, he saw Dempsey and Surrage at the window, and Surrage had his firelock in his hand, and was calling out "Who comes there?" That the declarant and the others were then taken away by the guard: That the declarant heard no firing, and he did not see Dempsey seize the sergeant, or threaten to strike him: That the de-

clarant was not perfectly sober when he was taken away by the guard. All which is truth,—

(Signed) JOHN BECK,
CLAUD MARSHALL.

At Greenock, the 2d day of August, 1820 years, in presence of CLAUD MARSHALL, *Esq. Sheriff-Substitute of the Lower Ward of Renfrewshire,*

Compeared JOSEPH ELLIOT, private in the Thirteenth Regiment of Foot, and present prisoner in the tolbooth of Greenock, who, being examined, declares, That he has been about a year in the said regiment, and was enlisted in the county of Galway, in Ireland, and is between nineteen and twenty years of age: That upon Saturday night last, about eight o'clock, the declarant, and one M'Arthy of the same regiment, had gone into a public-house, near the head of Shannon's Close, and got a bottle of porter, which they drank in a small room behind the shop: That as they were coming out, they saw Dempsey, Surrage, Beck, and Lynch, of the same regiment, taking a glass of spirits in the shop, and the declarant and M'Arthy were asked to take a glass with them, which they did: That Dempsey, Surrage, and the others set out for Dempsey's and Surrage's quarters, and they asked the declarant and M'Arthy if they would go and sit a while with them, which they agreed to do, and went accordingly: That M'Arthy went home before nine o'clock, and the declarant remained with the others: That when they were going down from the public-house to the quarters, the declarant was a few paces behind the rest, and a sailor, who came out of a public-house, came up to the declarant, and asked if the declarant would enlist him, to which the declarant said "No," and the sailor rejoined, by saying, if the declarant would give him a shilling he would go with him where he pleased: That the declarant then said to the sailor he did not think that he was height, to which the sailor replied, that he was a better looking man than the declarant, to which the declarant said, that he allowed that, and the sailor thereupon came up and struck the declarant on the breast, and said that he would kill a red coat as fast as he would look about: That another sailor then came up, and was pulling the man away; and Surrage likewise said, if he would strike, he should strike a man and not a boy like the declarant: That between eleven and twelve, as nearly as he

can guess, Surrage and Clinton left the room to go out and make water, and remained out for five or ten minutes, and during that time they heard Surrage and Clinton fighting with some sailors without, on which Dempsey, Lynch, and the declarant went down to see what it was about, and the declarant, who was last in going down, was scarcely out till he was knocked down twice: That the declarant immediately got into the inside, and the declarant was so much confused, and there were so many of the inhabitants and sailors about, that he has not a distinct recollection of the manner or the order of the other soldiers getting into the house, but he remembers of hearing Surrage call out for God's sake to let him in, or he would be murdered: That the soldiers then went up stairs to the room where they had been before, and they were no sooner in, than the window was driven in, but by what means he cannot say: That some of the soldiers then loaded their pieces, and fired out, but the declarant was so much confused and employed in keeping the door, that he cannot say which of the soldiers it was that fired, nor how often they discharged their pieces: That the declarant never handled a firelock or discharged one that night: That the declarant having observed that the candle had fallen off the table, and was lying beside the ammunition on the floor, he left his position at the door, and took up the candle and placed it on the table, and he gathered up the ammunition in his hand: That whilst he had it in his hand some part of it was taken from him, but by whom he does not know, and soon thereafter a man, that he supposed was the landlord, came into the room and said the guard was come, on which the declarant went and looked out at the window, and seeing the guard really there, he laid the ammunition down upon the floor, and went down stairs, and was taken away by the guard to the guard-house, and the declarant was the only one of the party that was taken up at that time: That the declarant saw no sailors in the room in the course of the evening, nor does the declarant know that a sailor was dragged into the house by the soldiers: That the declarant thinks, when he got in after being knocked down twice at the door as aforesaid, Beck was lying on a bed in the room, and he believes he was in a state of intoxication, but does not know whether he was asleep or not. All which is truth.

(Signed) JOSEPH ELLIOT,
CLAUD MARSHALL.

At Greenock, the 2d day of August, 1820 years, in presence of CLAUD MARSHALL, *Esq. Sheriff-Substitute of the Lower Ward of Renfrewshire.*

Compeared MALACHI CLINTON, private in the Thirteenth Regiment of Foot, and present prisoner in the tolbooth of Greenock, who, being examined, declares, That on Saturday night last, and, he thinks, after nine o'clock, Joseph Elliot met the declarant near his lodgings, and he asked the declarant to go along with him and he would give him a glass of grog, to which the declarant agreed, and Elliot took the declarant to Dempsey and Surrage's room, where there were assembled Dempsey and Surrage, Lynch, and Beck, and Elliott, and the declarant made the six, and the declarant continued with them for about three quarters of an hour, when he and Surrage went out with Elliot to see him home, as he was then very tipsey, and had been tipsey before he invited the declarant: That Surrage and the declarant accordingly saw Elliot to his lodgings, and then returned towards the house they had left, and, when on their way, they were surrounded by a number of sailors, and the declarant, as well as he could, dissuaded Surrage from speaking to them, as Surrage, at that time, was pretty hearty, but not drunk, and the declarant and Surrage got back to the length of the door, and the declarant having got in, went to the kitchen on the ground floor and got a drink of water from the servant-maid, and while he was drinking it, he heard a scuffle at the door, and he went there, and looking out, saw Surrage lying down on the ground at the threshold, and a number of people about him, kicking at him, and the declarant himself, on putting his head out, received a blow, with some hard substance, on the left side of the head, which brought him to the ground, and produced a wound, from which a great deal of blood flowed: That the declarant got up upon his hands and feet, and got into the house backwards, and got into the kitchen on the ground floor, where he got some water to wash himself, as he was all besmeared with blood, and the declarant remained below, and did not go up stairs again that night: That Surrage got in at the door immediately after the declarant, and went up stairs, and in about five minutes thereafter the declarant heard the window of the apartment driven in, and firing commenced immediately thereafter; but he cannot say how many shots were fired: That when the declarant was getting his face washed in the

kitchen, there was a great barking at the door, as if to drive it up; and the declarant having gone out of the kitchen, with the intention to go up stairs, he saw a man like a sailor, but who he was he did not know, sitting at the side of the kitchen door, all bloody; That the declarant, however, did not go up stairs, but remained below on the persuasion of the servant-maid: That the declarant was taken from the kitchen by the guard.—All which is truth.

(Signed) MALACHI CLINTON.
CLAUD MARSHALL.

In consequence of the desertion of the diet against Clinton, his declaration was of course not produced in Evidence.

EXCULPATORY EVIDENCE.

Examined by Mr Menzies.

MALACHI CLINTON—Knows prisoners, was in company July last, evening of affray, in the quarters of Surrage and Dempsey, at Quin's house—after meeting all drank together—does not know how long; was not intoxicated himself. Witness and Surrage left Quin's to escort Duncan and Elliot home, who were the worse of liquor. They had no weapons of any kind—did escort them home. Saw Duncan go to bed; Elliot also went; Elliot was very drunk; proposed with Surrage to return, Elliot insisted on returning also. In going back, as Surrage and witness got to the close mouth, from opposite close, met a woman and some sailors; woman spoke to Surrage. Two sailors came up and began to abuse Surrage about a woman, and witness then advised Surrage to have nothing to do with her. Surrage took advice and came away, but she and the men followed them—she asked for drink—the sailor insisted to strike Surrage, and called him a lobster-back b——, and that the woman should not go with him. Did not allow either to fight, till they came to the head of Shannon's-close, towards Surrage's lodgings. Witness went into the house first, into the kitchen—got a drink of water—saw Dempsey outside—left them. Looked out at door, heard an uproar, and saw both of them knocked down; received himself a blow with a stone on the head. Saw other sailors standing at the head of Shannon's close; got a blow on the head which knocked witness back into the door; fell within the door, insensible from the wound—there was women in the house. Mrs Quin washed his wound. Never went into the room where they had been drinking again, that night. Before he was knocked down saw between six and eight people at the door about Surrage and

Dempsey. Did not see with what Surrage and Dempsey were knocked down. Saw them come in after; they were all bloody—cut in the face, and bleeding much. Does not know if Surrage got any other wound. Neither saw any firing, nor fired himself. Neither Surrage nor witness had any intention of breeding a quarrel. As far as witness knows there was no design on the part of any of his comrades to breed a quarrel. Before he was knocked down did not strike any person.

Cross-examined.—Surrage was the worse of liquor; witness was sober. Surrage was capable of conducting himself. Surrage more drunk than Dempsey. Saw Dempsey first out at the corner of Shannon's-close, where it turns from Laigh-street; he was alone at the time. Dempsey, Surrage and witness went down to the house together; left them without; heard a noise; saw a man in sailor's dress sitting on kitchen door: was bleeding; left him sitting there; was in the kitchen all the time; heard firing from the room above, but saw nothing. Does not know what became of the man in sailor's dress. Remained in the kitchen till Captain came with the guard. Did not see or know of Serjeant M'Lurg being in the house. Was taken into custody; there was a bed in the kitchen.

Mr Menzies.—Witness lost a great deal of blood from the wound.

Lord Justice-Clerk.—Did not see in the kitchen either Surrage or Dempsey. Last time he saw them was coming into the passage when taken prisoners. Saw none of the others in kitchen; heard more than one or two shots, cannot say how many.

Mrs Cochrane.—Knows Surrage, and Dempsey; they lodged in flat above her house, at Mrs Quin's; conduct very good, never heard a bad word, or indecent conduct; appeared quiet and peaceable men; behaved soberly. Her husband keeps a public house. They were not in the habit of drinking there. Remembers an affray in July last. Saw Linch go out with a bayonet; she went to him, and he gave her up the bayonet. After this saw Elliott and Clinton, Beck and Surrage, come in, and Dempsey last. After they came in they did not go out again. Heard Surrage cry to open his lodging door for God's sake, or they would all be murdered; she answered no for they would be hurt, (meaning her own family) they insisted, and her husband let them in. When they got they all ran in, only noticed Dempsey, who was covered with blood. without knocking and swearing violently. Mob broke one spar out of the door; and one of the window shutters; a spar was a piece of wood nailed across the door; heard windows broke; first broke from the outside. Went up next morning to her room and found one of her own window shutters broken off from one of her under windows, and lying in the floor of the soldier's room. Does not think the window had any keepers or catch to keep it up—positive. Lately got the windows all repaired, the lower part. Heard mob say they would have the bloody souls of the soldiers, this a few moments before the firing began, three minutes or so.——Thought the mob would have got in but for the firing.

Cross-examined.—Sure all went up stairs except one Clinton; he went a few steps up stairs, and then came into the kitchen,—a lad of name of Robertson brought in by them. Saw a man with stoups at head of street; Dempsey wanted seamen to come in and settle it,—Robertson and lad with stoups, and another, and only Dempsey, came in. They then came down, and she would not give them drink; they at last went away. Dempsey gave the last one with the water-stoups a push out at the door, and tried to shut it, but one of them pulled him out; one of them with stoups fell, and stoups from him. Battle began immediately after man with stoups fell; Robertson brought in by four of them; flung him down, he bleeding much at head and face; was placed by her husband on kitchen floor; husband said he would go for the guard as this man is dead,—the one of them who came back to kitchen, from stair, struck him with candlestick; at the time he got blows, was down: Robertson lay down on bed afterwards; crept below it, and was taken out from there,—husband away for 15 minutes; mob still threatening violently, and, at last, first shot went off,—shot went off before husband went away, just as he was going out of window; by the noise of the knocks, believes the mob had sticks and stones. There were stones thrown at the windows; five panes broke; only one small stone next day on the floor; panes of under case all broke; none broke in the upper part.

Captain Shearman,—Commanded a detachment of 13th regiment, in July last; when come to the house, saw two soldiers; called to them to surrender; one of them said he would, but afraid of being murdered by the mob; would, if witness protect him, come down; told them to come down and he would protect them from the mob; called out to them who he was; *instantly came down when he said he would protect them.* Immediately gave up their muskets into witnesses hand,—Surrage and Dempsey the two who came down; not being of his company, does not know the character of the men.

Cross-examined.—Those at the window said they would surrender; could not swear these two at the window were Surrage and Dempsey; but these are the two who surrendered their muskets,—There was also one musket brought down without lock. If it had not been for the interference of Lennox and some other respectable individuals, witness believes the mob would have attacked the party, from the language they used. The men seemed to have been drinking, but not drunk; appeared to have been more alarmed than drunk.

Martha Jamieson,—knows only Linch; had seen him three or four times at Greenock; was in Greenock in July last; remembers an affray; first saw soldiers running, and people after them, the former bleeding. Witness saw the soldiers running down to house in Shannon's close; good many of the town's people had stones or sticks; not sure which; saw soldiers run into one Cochrane's.—Mob broke one of windows; was a high window; does not know whether there were shutters on lower windows,—saw mob trying to break up lower windows. Witness, in the close, saw mob beating both at door and win-

dow. Heard mob damning soldiers for firing,—heard once or twice a voice from window, '*take care*,' immediately before firing; this each time a shot was fired.

Cross-Examined—Cannot say saw either stone or stick in hands of mob; but from noise, positive they were stones that were thrown at the window.

Sir William Williams.——Has been Lieutenant-colonel of the 13th regiment many years, before came to Glasgow; never had any uproar with people. Has many testimonials in favour. Surrage is an excellent man, and Captain always had the greatest regard for him. Dempsey is a man given to liquor; is not cruel or likely to shed blood rashly. Knows Beck well, has an excellent character. Elliot is a quiet recruit; has not been long with the regiment. Lynch is also a recruit, and has borne a good character while with the regiment.

The Lord Advocate then rose and addressed the Jury for the Crown. He set out with observing, that a great degree of strong popular feeling had been excited by the melancholy occurrence which had given rise to this trial, and it was deemed expedient on this account, that the trial should take place here, rather than in the west country, lest, had the case been tried in that quarter, the Jury might be supposed to be in some measure influenced by the general tone of sentiment said to prevail there, to the prejudice of these unfortunate individuals. After all the evidence which had been gone through, he was obliged to confess that he was not yet thoroughly satisfied himself as to the manner in which the quarrel originated which gave rise to the lamentable catastrophe which followed. The account of it given by the boy Mitchell appeared to him to be the most clear, natural, and consistent. He was confident that had the soldiers retired into their lodgings in Quin's house by themselves, when attacked by the mob, they would have been suffered to remain there completely unmolested. But they dragged in along with them one Robertson, whom, after they had got into the house, they treated with the most base and horrid barbarity; beating the wretched man on the head with a candlestick till he was almost bereft of existence. And was it surprising that the multitude around the door should have tried every means in their power to deliver the unhappy victim from his perilous situation, and assaulted with all their strength every entrance to a house where they were convinced the most cruel murder was committing. The learned Lord then proceed-

ed to give the Jury a short summary of the facts adduced in evidence against the pannels. He dwelt strongly on the circumstance of their having fired after the mob had dispersed, and the guard had been at the house, and after they had removed into custody the individuals whom they pretended to be afraid of; on Pearson's dying declaration that the soldiers who fired took a direct aim at him; and on their exercising a most barbarous, and cruel spirit down to the very last moment. The first question he would submit to them was, how far the presence of those prisoners who were not proven to have been actual perpetrators of the crime, involved a participation in it. Mere presence is sufficient to connect an individual with a crime in all cases where the crime has been previously concerted, and where every one present at its commission either had a part in its contrivance, or must have been aware of what was to be perpetrated; but in all cases again where the crime is not the result of any previous concerted plan, the law does not require that all present should be condemned, unless it be proven that they have taken an active part in the crime. The learned Lord then quoted two cases from Hume illustrative of this doctrine. On this account he was inclined to think that although the prisoners Beck, Lynch and Elliot were proven to have been present in the room from whence the firing proceeded, yet as the proof of their implication went no further, he would consent to a verdict of acquittal being pronounced in favour of them. The reason why Clinton, though liberated without trial, was included in the indictment, was not because he was thought guilty, but because it was wished that all who were suspected of participating in the crime might be brought to trial, that the country might be satisfied, and that such as were innocent might, by their acquittal, be thus freed from any stigma which might otherwise attach to their character. But while he consented to the acquittal of these men, he could not do so against the other two unfortunate individuals, Surrage and Dempsey. He was sorry, truly sorry, to say his duty, and a painful duty it was, compelled him to demand a verdict of murder. These men were both seen with arms in their hands, arms too which were proven to have been their own. With these arms they were seen to have fired, and, after their firing, men were seen to fall. It was a matter of no consequence whether or not it was made out which of the pannels fired at the respective individuals killed,—whoever of them it was, they were both alike guilty. He understood the plea of drunkenness was laid hold of by the prisoners counsel, as a ground of defence; but Mr. Hume ex-

pressly declares, that this, instead of being an alleviation, is an aggravation of guilt; and even if it were an extenuation, the facts of the case do not authorise the supposition of their having been in a state of intoxication. All the witnesses examined upon that point, concur in stating that, although they were a little the worse of liquor, they were perfectly sensible of what they were about. Nor would the plea of self-defence, he was afraid, be any more successful. Before a man be justified in taking the life of another, in self-defence, it is necessary his life be in danger. It is not enough even that he himself should imagine so,—the facts and circumstances of the case must warrant such an idea; and though his life should at one time be in danger, yet if an interval of safety should intervene, an act of violence becomes no longer justifiable. Had they fired when attacked by the mob in the streets, the plea of self-defence might be urged with more plausibility; but did they not discharge their fire-arms after they had sheltered themselves in the house?—after the only individuals, whom they pretended to be afraid of, were taken into custody; and after the period when they might have secured their own safety, by obtaining the protection of the guard. Simpson and Pearson had been shot after the guard had been at the house. Had not the crowd desisted from their attacks, and retreated to a considerable distance from the house? Did not Morrison cry out to them that he was a watchman, and that, instead of wishing to do them any mischief, he wished to protect them? Had they really been alarmed for their safety, would they not have begged protection from the guard when they first came? Have solicited them to relieve them from their peril, and to have entered the house on purpose to defend them.—But they did no such thing. There was in reality no ground for, apprehension; for, granting the crowd had not been perfectly peaceable at the time the murderous acts were perpetrated,—granting they had been still attacking the house, how was it possible an unarmed multitude could have ascended a narrow stair in opposition to six men armed, and possessed of ammunition.

The learned Lord concluded with observing, that it was necessary the army should be taught, by their verdict, that they are not wantonly to use against the lives of their countrymen the arms with which their Sovereign has invested them for their country's defence, and that they are bound to respect their fellow-subjects, and treat with reverence those laws which they are to set up for the enforcing and protecting of.

MR. MENZIES then rose to address the Jury for the prisoners. The prisoners at the bar laboured under very peculiar disadvantages. Attempts had been made, in the West Country, to prejudice the minds of the people against them; and the events which had occurred in Glasgow, previous to the melancholy circumstance which had originated this trial, had been made a handle for defaming them. But they would remember the high character given by Sir William Williams, their commanding officer, who deponed, that before they came to Glasgow, they were as peaceable a regiment as any in the army. There was no evidence, he said, of the person Morrison, mentioned in the indictment, having been killed. For although they have it in evidence that one Morrison was killed, there is no proof of his having been the son of Morrison, as there described.—The learned Counsel then went over the different parts of the evidence, the whole of which he endeavoured to shew, was full of discrepancies and inconsistencies. He thought there was nothing to lead them to suppose the soldiers knew that the individual, Simpson, was really a watchman, as his dress was in all respects similar to a sailor, and his telling them he was so, was no reason why they were bound to believe him. As to Pearson, he maintained, that from the manner in which the bullet was said to have perforated his body, and from there having been the mark of a ball upon the window shutter near where he fell, there was strong reason for believing that the ball had first hit the window, and had wounded him in flying back. But granting they had been shot by the individuals in the house, it was necessary, before the Jury could bring in a verdict of murder, that they should be satisfied which of the pannels it was who shot on the actual occasion; and having decided this, they were bound to acquit the other. They could not bring them in guilty, art and part, as that charge was not laid against them in the close of the indictment. From the evidence it was clear that Dempsey and Surrage were not to blame for having dragged in and maltreated the individual Robertson, which was said to be the cause of their being attacked. The guilt of barbarously beating him on the head with a candlestick he had every reason to believe attached to the individual Clinton, for he had declared there were none of the military in the kitchen but himself at the time this inhuman treatment was inflicted. The learned counsel concluded by observing that if they were constrained to find the prisoners guilty, they would not fail, he was confidence

to mark the wide distinction which prevailed between their case and that of murder coolly and deliberately inflicted, and for the accomplishment of some nefarious purpose. They would, he hoped, take into view the peculiar circumstances in which the prisoners were placed: in imminent danger of their lives---irritated to the extreme by the wounds they had received---and their minds disordered by the state of partial intoxication in which they were---all which circumstances must have a powerful effect in extenuating their guilt in the eyes of a just and dispassionate jury.

The LORD JUSTICE-CLERK then proceeded to sum up the evidence to the Jury. It was impossible, he said, from the facts in this case, to construe the acts which had been perpetrated into those of culpable homicide. The learned counsel was wrong in supposing that the Jury could not find a verdict of murder against the prisoners generally in the different cases libelled in the indictment, because although the charge of actor or art and part was not libelled at the close of the indictment, it was distinctly specified in the minor proposition. And with regard to the general crime of murder, they are distinctly charged as actors or art and part. And Hume says that it is sufficient if this charge is contained either at the close of the libel *or in any other part.* He agreed with the prisoner's counsel that there was not such a specification of facts as to establish satisfactorily the death of Morrison; and that the three prisoners Lynch, Beck and Elliot were not shewn to have participated in the crime, and were therefore entitled to a verdict of Not Proven. But with regard to the guilt of the other two unfortunate pannels, Surrage and Dempsey, he was sorry to say, the same view could not be taken. There was no proof of any violence having been committed against these men so as to authorise the acts which had been committed. One Martha Jamieson had been called to prove that the windows of the house where they had sheltered themselves had been violently assailed with stones so as to be driven in. But they were to judge what degree of credit they were to give to this witness. For his own part he must say that her style of evidence appeared rather singular. There was so much light, she said, as to enable her to perceive perfectly well that the upper sash of the window was knocked in, but she was completely at a loss, by means of the same light, to form any idea of the features of those who stood at the window. It is evident that this witness contradicts the testimony of Cochrane as to the shutter driving in the sash. All the

other witnesses declare that the windows of the upper sash were not broken, and it was certainly as singular a circumstance as can well be imagined if showers of stones could have come upon the window and yet no harm be done to the upper part of it. Lennox, the superintendant of police, declares, that there was no harm done to the upper sash, but that it was evidently pulled down by those within. Besides, it is most evident and indisputable, that men were seen leaning out of that window for a great length of time without interruption, and could it be supposed this would have been the case had the window been violently assailed; would not the parties within have anxiously retired further back in order to avoid the danger? There were two circumstances that made strong against the prisoner's defence, which he would particularly allude to: the first was, that when Cochran the landlord of the house upon the arrival of the guard came up to Surrage and Dempsey, and told them that he had brought the guard to them, Dempsey uttered a great oath, and swore he would blow his brains out for doing so. Now he certainly thought it very strange if they were really in that imminent danger in which the counsel maintained they were, or if they had been really impressed with the idea that they were in danger from the mob, would they have used such an expression,—would they have been enraged at Cochran for bringing the guard to their relief? Would they not on the contrary have been highly grateful to Cochran for what he had done, and overjoyed at the idea of the protection which they would by their means be afforded. The other circumstance was that they fired not only before the guard came, but after they had departed, and done all for their safety which they requested them to do, by taking away the two sailors at the door whom they pointed out to them as the only cause of their alarm. It was true, as had been maintained, that when the guard came the last time, Surrage called out to them that they were afraid of the mob, and that if they would promise to protect them from their violence, that they would come down. Now, it must be remarked, that this was after they had fired repeatedly upon the people, and their firing had done so much execution; and he would say, that at this time, it was not at all unnatural they should have been in considerable alarm from the crowd. They knew well, that if they had fallen into their hands, they had nothing to look for but vengeance, after the atrocious acts of violence which they had committed. But this was no reason for their having had cause for alarm

previous to the firing. No symptom of violence was shewn; there was no indication of attack at the time when Simpson and Pearson were shot. The crowd were at that time perfectly peaceable, and standing at a great distance; and, in point of law, unless there is decided provocation at the very moment that the violence is offered, the attack is in every respect as criminal as if there had been no provocation at any time. The attack upon Pearson, beyond doubt, constituted murder; and it did not matter whether the ball struck him directly, or hit him after first striking upon the wall. His Lordship then made a few remarks on the evidence of Clinton. He did not think his testimony entitled to much consideration. He agreed with the prisoners' Counsel in the conviction that he was the individual who had so barbarously maltreated Robertson, with the end of the candlestick. There was one circumstance which convinced him as much as any thing of the peaceable and inoffensive character of the crowd, and that was, that they did not offer the smallest violence to the military, upon taking into custody the sailors, at the request of Surrage and Dempsey, even although they saw they had been doing no harm at the time they were taken up. His Lordship then alluded to the good character which had been bestowed upon Surrage, by his officer. A good character ought to weigh very strongly with a Jury, when the evidence of guilt is doubtful and unsatisfactory; but in a clear case, like the present, where the crime is so effectually brought home to the prisoner, it was to be of little or no avail. The decision, he hoped, would be of great consequence to the country, and form a very useful lesson to the military. It would convince them that though they would undoubtedly be protected in the discharge of their duty, yet if they took upon them to violate the law which they were bound to protect, their conduct would be visited with exemplary punishment.

His Lordship's address, which displayed a great degree of eloquence, and strength of argument, occupied the Court for about two hours.

The jury now returned a *viva voce* verdict, finding Beck not guilty; the indictment against Elliot and Lynch, Not Proven; and Surrage and Dempsey, Guilty of the murder of Simpson and Pearson only, but unanimously recommended Surrage to mercy.

The trial occupied eighteen hours and a half, and the Court adjourned at half-past four on Wednesday morning, to half past ten.

The Court accordingly met at half-past ten o'clock, on Wednesday, when John Dempsey and Robert Surrage, were brought to the bar to receive sentence.

The verdict of the Jury being read:

Lord Gillies said, it now became the duty of their Lordships to give effect to the impartial verdict which had been pronounced by an attentive and intelligent Jury, against the unhappy prisoners now at the bar. He felt himself bound to say, that a fairer or more equal trial he had never witnessed; and that the pannels had been most ably defended. He conceived, and suggested, that the verdict of the Jury had left no alternative in the breasts of the Court, but they must faithfully administer the full penalty which the law, both human and divine, had pronounced against the crime of which the pannels had been found guilty; and with the most painful and heartfelt feelings, he had to propose, that the prisoners be taken from the bar to the place from whence they came, and be executed, in the manner which the law prescribes, at Edinburgh, on Wednesday the 13th day of December next. Participating in the regret which his learned brothers, and all humane persons, must feel, that such a solemn example should be unavoidable, he trusted, while it would serve to convince the military in particular, that the weapons which they wore were entrusted to them for the defence and not for the destruction of their peaceable fellow-citizens,—it would also demonstrate to the other classes of his Majesty's subjects, that the law, and the administration of the law, are even handed; and that it would serve as a warning to all classes of men not to indulge a rancorous spirit, and not to surrender their better feelings to the indiscriminate and uncontroulable fury of a tumultuous indignation.

Lord Pitmilly. His Lordship said that he never had addressed their Lordships under deeper or more acute suffering than on the present occasion; but it could not fail to be satisfactory to the pannels themselves, conservative of the country, and important to the comfort of us all, that in this, or in any other criminal court, never did Counsel, Jury, and every person concerned and bound to interfere, conduct themselves with more ability and propriety than has been exemplified by all the parties concerned in this trial. The Jury have shown, throughout this case, an attention that reflects on them the highest credit. The verdict was the only one that could have been pronounced without danger to the country. It was impossible to suppose the peace of a garrison town could ever be preserved, if such an outrage and vio-

lence, as had been proved against the pannels, were to pass unpunished; and the sentence named, was the only one in their Lordships power, to pass on the unfortunate pannels at the bar.

The LORD JUSTICE CLERK. Prisoners at the bar. It is with the most unfeigned reluctance, I assure you, that the Court feel themselves constrained to perform the present most painful duty. You have been convicted by the verdict of a most intelligent, patient, and attentive Jury of your countrymen, of a wilful, unjustifiable, and heinous murder. It is far, very far from my intention or wish to aggravate the poignancy of that distress which I perceive, at this moment, pressing most heavily upon your hearts; but it is my duty to state to you, as I stated this morning, that the unalterable verdict of a Jury has placed you in a situation which forbids you to repose with confidence on the mercy of any earthly tribunal; and that your only reasonable hope must depend on your making your peace with the Divine Judge of all the world, to whom, I trust sincerely, you have already directed your supplications. With the sincerest belief in the importance of the consideration to the prisoners at the bar, in reconciling them to the justice of the sentence which has been already considered and determined on by the Court, and in leading them to seek consolation where alone it is to be found, let me again urge upon your attention what has been so properly suggested to your minds by my learned brother on the right, (Lord Gillies) that it is not alone by the law of man that the penalty of your crime is determinable, but the inscrutable and irreversable decree of the Most High has ordained that "Whosoever sheddeth the blood of man, by man shall his blood be shed." Prisoners, the law of man, as it respects your great crime, formed upon the basis of this decree, now demands for its own preservation, as far as this Court is concerned, the administration of its penalty in your case; and I trust in God, as my learned brothers have already observed, the effects of this example will be salutary on the country at large, and, in particular, on that body of men who are entitled, when lawfully called out, to use their arms in aid of the civil power, for the protection of the liberties of their country; but they are not to use them as the means of aggression on the peace, freedom, and lives of their fellow subjects; and though, when lawfully called out, the exertions and intrepidity of those spirited men which compose the military service of the country, which I trust always will, as they ever have been available on proper occasions,

though I repeat those lawful exertions will always entitle them to the honour and respect of their country; yet when their exertions are wantonly, unprovokedly, and unjustifiably directed against the laws they are bound to obey and protect,—they must answer for their conduct before an impartial Jury of their country, and before a Court of Justice that is determined to uphold the law. The only object the Court has had in view was, that the truth of the facts should be made evident, and the law of the land impartially applied; and I hope it will teach the country to value and respect the decisions of its courts. I pray to Almighty God that he may lead you to look well to your future conduct, during the short time which the sentence of the law can allow you to continue in this world. I am sorry to announce to you, John Dempsey, that the verdict of the Jury being unaccompanied by any implied extenuation of your guilt, there is not the least prospect that, in this world, a pardon can be extended to you; and sorry am I to find that the circumstances of your case would not have justified a recommendation of mercy in the verdict finding you guilty. Let me, therefore, most solemnly entreat you to prepare yourself for the approach of that dissolution on the verge of which you are standing. As to you, Robert Surrage, although I shall most certainly concur with my learned brothers, in communicating the Jury's recommendation of mercy to the proper quarter, you must be duly sensible that the fate of that recommendation does not rest with the Court. It is, therefore, incumbent on you, as well as on your unfortunate companion, now that you are shortly to appear before the judgment seat of Christ,—and in order that you may be able to appear there in a more favourable light than you have appeared in here, it becomes us to charge you to examine the inmost recesses of your heart, and to search the Scriptures, with the aid of the religious counsel of those who will be ready to administer it, that you may be able to make your peace with God. I have now to declare to you the sentence of the Court.

His Lordship then read the sentence authorised by the Act, to prevent the crime of murder.—That they be executed at Edinburgh on Wednesday the 13th of December next, between the hours of eight and ten o'Clock morning, and their bodies be afterwards given to Dr. Monro for dissection.

The prisoners are good-looking young men, and appeared in great agony of mind, particularly Surrage, who did not cease to shed tears from the time the verdict was pronounced.

ANDERSON & BRYCE, Printers.

AP ASY QJt
The trial of Robert Surrage, J
Stanford Law Library
3 6105 044 024 888

Robert Crown Law Library
Stanford University
Stanford, CA 94305-8612